

**Ammended parts only, but has all provisions relating to REs.Unofficial Translation of  
Proposed amendments in the ALPA**

**1. 1. Short Name, Extent and Commencement:** (1) This Act shall be cited as "Asset (Money) Laundering Prevention (Second Amendment) Act, 2014".

(2) The Act shall come into force immediately.

**2. Amendment in the Preamble:** The clause "act of money laundering" in the Act 2008 has been replaced by the clause " money laundering and terrorist financing".

**3. Subsection (2) of section (1) has been replaced as follow:**

(2) This Act shall apply all over Nepal and be applicable to any person committing the offence of money laundering or terrorist financing irrespective of whether such person is located in Nepal or outside.

**4. Section 2. of the Act has been replaced as follows: Unless the subject or context other requires, in this Act,-**

a. "Investigation Officer" means an investigation officer designated or appointed pursuant to section 15.

b. "International politically exposed person" means any person who is or has been entrusted with a prominent function by an international organization as a member of senior management, or a director, deputy director, member of the board or in an equivalent position.

c. "Terrorist act" means the following acts:

1. Any act, which is defined as an offence by Article 2 (1)(a) of the International Convention for the Suppression of the Financing of Terrorism 1999.

2. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

3. Any act that is an offence under the following convention to which Nepal is a party to:-

a. Tokyo Convention on Offences and Certain Other Acts committed on Board Aircraft, 1963

b. SAARC Regional Convention on Suppression of Terrorism, 1987

c. Any other convention against terrorism which Nepal becomes party to, after the implementation of this Act.

d. "Terrorist (individual)" means any natural person who commits the following acts:

1. commits or attempts to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully,

2. participates as an accomplice in terrorist acts,

3. organizes or directs others to commit terrorist acts, or

4. contributes to group of persons acting with a common purpose of commission of terrorist acts where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.
- e. "Terrorist organization" means any group or organization of terrorists that commits the following acts:-
1. commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully;
  2. participates as an accomplice in terrorist acts;
  3. organizes or directs others to commit terrorist acts; or
  4. contributes to group of persons acting with a common purpose of commission of terrorist acts where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.
- f. "Politically exposed person" means any domestic politically exposed person or official or foreign politically exposed person or official, or international politically exposed person or official.
- g. "Proceeds of crime" means any property derived from or obtained directly or indirectly through the commission of a predicate offence and it shall also include any other property and economic advantage gained or derived from such property or any property transferred or converted into other property or advantage, in full or in part, from such property or advantage.
- h. "Instrumentality" means any means or property used in or in connection with or intended to be used, wholly or in part, in or in connection with the commission of an offence and it shall also include any instruments.
- i. "Transaction" means any agreement made in order to carry out any economic or business activities and the term also means the purchase, sale, distribution, transfer or investment and possession of any assets, or any other acts as follows:-
1. Establishing business relationship,
  2. Opening of an account,
  3. Any deposit or collection, withdrawal, exchange or transfer of funds in any currency or instruments, payment order by electronic or any other means,
  4. Use of any type of safe deposit box (locker),
  5. Entering into any fiduciary relationship,
  6. Any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation,
  7. Any payment made or received in respect of a lottery, bet or other game of chance,
  8. Establishing or creating a legal person or legal arrangement, or
  9. Such other act as may be designated by the Government of Nepal by publishing a notice in the Nepal Gazette.

j. "Legal arrangement" means trust (express trust) or other similar kind of legal arrangements.

k. "Legal Person" means any company, corporation, proprietorship, partnership firm, cooperatives, or any other body corporate.

l. "Funds" means any financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, physical or non-physical (corporeal or incorporeal), or the following instruments or resources, however acquired. It shall also include legal documents or instruments in any form, including electronic or any other, evidencing title to, or interest in, such property, instruments or resources:

1. bank credits,
2. travelers cheques,
3. bank cheques,
4. money orders,
5. shares,
6. securities,
7. bonds,
8. drafts,
9. letters of credit,
10. any interest, dividends or other income on or value accruing from or generated by such property, instruments or resources, or
11. any other financial or economic resources.

m. "Designated Non-Financial Business or Profession" means any person who conducts or carries on following act or business:-

1. casinos or internet casinos,
2. the purchase or sale of real estate,
3. dealing in precious metals or precious stones ,
4. notaries, other independent legal and accounting and other similar professionals when they prepare for, engage in, or carry out transactions for a client concerning any of the following activities:-
  - a) buying and selling of real estate,
  - b) managing of client money, securities or other assets,
  - c) management of bank, savings or securities accounts,
  - d) organization of contribution and investment during the period of creation, operation (management) of legal persons,
  - e) creation, registration, operation or management of legal persons or arrangements, or
  - f) buying and selling of any business entities;

5. trust and company service providers which prepare for, engage in, or carry out transactions on behalf of customers in relation to any of the following services, as a business:
  - a) acting as a formation, registration or management agent of legal persons or legal arrangement,
  - b) acting as, or arranging for another person to act as, a partner, director or secretary of a legal person, or to hold a similar position in relation to other legal person,
  - c) providing a registered office, or accommodation, business address or correspondence or administrative address for a legal person or legal arrangement,
  - d) acting as, or appointing or arranging for another person to act as, a trustee of an express trust or other similar arrangement,
  - e) acting as, or arranging for another person to act as, a nominee shareholder for another person pursuant to prevailing law,
6. Any other business, profession or activity as may be designated by the Government of Nepal by publishing a notice in the Nepal Gazette.

- n. "Prescribed or as prescribed" means prescribed or as prescribed in this Act or the Rules thereunder.
- o. "Regulator" means any institution established for the regulation and supervision of reporting entity under prevailing laws. It shall also denote the Regulator designated by the Government of Nepal pursuant to subsection (2) of the section 7T.
- p. "Bearer Negotiable Instruments" means any negotiable instruments including the monetary instruments in bearer form including traveler's cheques, cheques, promissory notes and money orders that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that holder's title thereto passes upon delivery or any such instruments in incomplete form or without the name of payee or payable to anyone who holds or receives it.
- q. "Chief" means the Chief of the Department.
- r. "Currency" means any Nepalese or foreign currency.
- s. "Rastra Bank" means Nepal Rastra Bank established pursuant to prevailing law.
- t. "Public Servant" means person deemed to be public servant as per the prevailing law.
- u. "Beneficial owner" means a natural person who, directly or indirectly, owns or controls or directs or influences a customer, an account, or the person on whose behalf a transaction is conducted, or exercises effective control over a legal person or legal arrangement or remains as an ultimate beneficiary or owner of such activities.

- v. "Foreign politically exposed person" means politically exposed person who is or has been the Heads of State or of government, senior politician, central member of national political party, senior government, judicial or military official, senior executives of state owned corporations of a foreign country.
- w. "Department" means the Department of Money Laundering Investigation pursuant to section 11.
- x. "Financial Information Unit" means Financial Information Unit pursuant to section 9.
- y. "Financial Institution" means any person who conducts any of the following activities or operations for or on behalf of a customer, as a business:
  - 1. Acceptance of deposits and other repayable funds including from the public,
  - 2. Private banking,
  - 3. Any type of lending,
  - 4. Financial leasing, except consumer products,
  - 5. Money or value transfer services, except those limiting their functions solely with passing message for transmitting funds,
  - 6. Issuing and managing any means of payment namely cheque, draft, money order, debit card, credit card, including any electronic or other instrument of payment,
  - 7. Financial guarantees and commitments,
  - 8. Trading in following instruments:-
    - i. money market instruments including cheques, bills, certificates of deposit, derivatives etc.,
    - ii. foreign exchange,
    - iii. exchange, interest rate and any instrument of value or amount,
    - iv. transferable securities, or
    - v. commodity futures trading.
  - 9. Participation in securities issues and the provision of financial services related to it,
  - 10. Individual and collective portfolio management,
  - 11. Safekeeping and administration of cash or liquid securities on behalf of other persons,
  - 12. Underwriting and placement of life insurance and other investment related insurance,
  - 13. Money and currency changing,
  - 14. Otherwise investing, administering or managing funds or money on behalf of other persons beyond clause (1) to (13) or
  - 15. Executing the function as prescribed by the Government of Nepal by publishing a notice in Nepal Gazette

- z. "Person" means natural or legal person.
- aa. "Suspicious Transaction Report" means report pursuant to section 7S.
- ab. "Offence of money laundering and terrorist financing" means money laundering and terrorist financing offence.
- ac. "Predicate offence" means the offences under the schedule.
- ad. "Property" means assets of every kind, whether physical or non-physical (corporeal or incorporeal), moveable or immovable, tangible or intangible, or fund, or any other instruments or items carrying value. It shall also include any legal document, proof, certificate, or electronic or other instrument evidencing title to, or interest or claim or rights in such assets.
- ae. "Reporting Entity" means financial institution and designated non-financial business and profession.
- af. "Shell Bank" means a bank, which has no physical presence in the country in which it is incorporated, licensed or located, and which is not affiliated with a regulated financial services group that is subject to effective consolidated supervision.

**Clarification:** For the purpose of this clause, presence of local agent or junior level staff does not constitute physical presence.

- ag. "Domestic politically exposed person" means any politically exposed person of Nepal who is or has been in the post of special class or equal to special class or above that class of the Government of Nepal, judge of the Appellate Court and above, senior politician, central member of national political party or senior executives of any institution partially or fully owned by the state.

## Chapter 2

### Offence of ML and TF

**3. Not to launder property:** (1) No person shall commit or cause to commit or participate in any of the following acts:-

- (a) Converting and transferring property by any means knowing or having reasonable grounds to believe that it is proceeds of crime for the purpose of concealing or disguising the illicit origin of property, or assisting any person involved in the offence for evading legal consequences of offender.
  - (b) Concealing or disguising or changing the true nature, source, location, disposition, movement or ownership of property or rights with respect to such property knowing or having reasonable grounds to believe that it is proceeds of crimes.
  - (c) Acquiring, using, possessing property knowing or having reasonable grounds to believe that it is the proceeds of crime.
- (2) No person shall conspire to commit, aid, abet, facilitate, counsel, attempt, associate with or participate in the commission of the acts mentioned in subsection (1).
- (3) Any person who commits any act mentioned in subsection (1) or ( 2), commits the offence of money laundering.

**4. Not to commit offence of terrorist financing:** (1) No person shall, by any means, directly or indirectly, unlawfully and willfully, provide or collect funds with the intention that they should be used or in the knowledge that they are to or intended to be used, in whole or in part, in order to carry out a terrorist act, or by a terrorist or a terrorist organization.

- (2) No person shall attempt to commit any act mentioned in subsection (1).
- (3) No person shall, by any means, directly or indirectly, provide or conspire to provide material support or resources to any terrorist or terrorist organization or in order to carry out a terrorist act.
- (4) No person shall undertake any of the following acts in relation to any act mentioned in subsection (1), (2) or (3) :
  - (a) to participate as an accomplice in such act,
  - (b) to organize or direct others to commit such act,
  - (c) to contribute a group of persons which commits such act or has a common purpose of committing such act or willfully promote such group of persons for furthering their criminal activities or to achieve such purpose.
- (5) It shall be the offence of terrorist financing if any of the following circumstances exist in relation to any act under this section:
  - (a) Even if the terrorist act does not occur or is not attempted,
  - (b) Even if funds were not actually used to commit or in the attempt the terrorist act,
  - (c) Even if such funds are linked or not to a specific terrorist act,

- (d) Even if the terrorist act or intended terrorist act does occur or will occur in the same State or territory or somewhere else,
  - (e) Even if the terrorist organization and individual terrorist is or is not located in the same State or territory where the terrorist act is intended to or occurs,
  - (f) Whether or not the funds are collected or provided from legitimate or illegitimate source,
  - (g) whether the person alleged to have committed the terrorist act or terrorist financing is in the same country or a different country or territory from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or will occur.
- (6) Any person who commits an act mentioned in subsections (1), (2), (3), (4) or (5) shall commit the offence of terrorist financing.

**5. Act committed in Foreign State to be an Offence:** It shall be an offence of terrorist financing for the purpose of this Act, if any act mentioned in section 4 occurs in a foreign state or territory and such act is an offence under the law of that state.

**6. Amendment in Chapter 3: The chapter 3 has been replaced by the following chapter.**

**Chapter 3**

**Provisions on Customer Identification and Transactions**

- 6. Prohibition on Anonymous Accounts:** Reporting Entity shall not establish or maintain anonymous accounts, or accounts in fictitious names or transact in such accounts or cause to do so.
- 7. Prohibition against Shell Bank:** (1) No shell bank shall be established or permitted to operate in or through the territory of Nepal.
- (1) Financial institution of Nepal shall not enter into or continue business relation with any financial institution or other entity that allow transaction to shell bank.
- 7A. Customer Identification to be required:** (1) Subject to subsections (3) and (4), reporting Entity shall accurately identify the customer when carrying out the following acts:-
- (a) establishing business relationship
  - (b) opening an account,
  - (c) carrying out occasional transactions above a threshold as may be prescribed,
  - (d) carrying out wire transfers by electronic means,
  - (e) there is suspicious about the veracity or adequacy of previously-obtained customer identification information,
  - (f) there is suspicion of money laundering or terrorist financing,



- (g) at any time of transaction in relation to the high risk and politically exposed person,
  - (h) in any other situations as prescribed by the Regulator.
- (2) Reporting entities shall receive documents as prescribed in the customer identification process.
  - (3) Reporting entity shall use such reliable and independent source documents, data, information for the identification and verification of the customer as per this chapter.
  - (4) Reporting entity shall take following measures when undertaking the identification and verification of its customer:
    - (a) Understanding and obtaining information and details clarifying on the objectives, purpose and intended nature of business relationships and transactions,
    - (b) Where the customer is a legal person or legal arrangement, understanding and verifying its ownership and control structure, and obtaining such information,
    - (c) When a person is establishing business relationship or conducting transaction on behalf of another customer, obtaining identification document of such person and the person working on behalf of him including evidence verifying that that such person is properly authorized to act
    - (d) Obtaining other information and details regarding customer, transaction and its nature to fulfill the obligations under this chapter,
    - (e) Obtaining information about the nature and intent of the business relation and transaction,
    - (f) Applying other measures as prescribed by the Regulator.
  - (5) Notwithstanding whatever written in the sub-section (1), following reporting entity shall accurately identify and verify the following customer as follows:-
    - (a) A casino for a customer involving in the transactions of NRs two hundred thousand or more in a day,
    - (b) A precious metal and items business for a customer involving in cash transactions of NRs one million or more in a day.
  - (6) Entire liability of accurately identifying and verifying the identity of the customer pursuant to this chapter shall be of the reporting entity.

**7B. Special Provisions for Identification of Politically Exposed Person:** (1) Reporting entity shall establish a risk management system to identify whether a customer, person seeking to be customer or a beneficial owner of a customer or transaction is politically exposed person.

(2) Reporting entity, while evaluating as per subsection (1), shall adopt the following additional measures if it finds the customer or beneficial owner is either a foreign PEP or a domestically exposed person or international politically exposed persons evaluated to be of high risk:-

- (a) to obtain approval from senior management official while establishing a business relationship,

- (b) to acquire approval from senior management official to continue the business relation with an existing customer if he is identified as a politically-exposed person,
  - (c) to take all reasonable measures to identify the source of amount, fund and property of such customer or beneficial owner,
  - (d) to provide ongoing monitoring of such customer and the business relationship,
  - (e) to apply Enhanced CDD measures pursuant to section 7E.
- (3) Provisions stipulated in sub-sections (1) and (2) shall be applicable to the family members and associated persons of foreign PEP, or international PEP or domestic PEP identified as high risk.

**7C. Beneficial ownership to be identified:** (1) Reporting Entity shall, when establishing business relationship or conducting transaction, identify the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner.

- (2) Reporting entity shall ascertain whether a person is acting or establishing business relationship or conducting transaction, on behalf of another person.

**7D. Risk Assessment and management:** (1) Reporting entity shall identify and assess risks on ML and TF in accordance with its business or profession, scope, customer, products or services, transactions or delivery channel etc.

- (2) Reporting entity, while conducting risk assessment pursuant to sub-section (1), shall also take into account the findings of the national and regulatory risk assessment.
- (3) Reporting entity shall, while conducting risk assessment pursuant to sub-section (1), determine the level of risks by analyzing all relevant risk factors.
- (4) Reporting entity shall maintain records of conclusion of risk assessment and all related details and information.
- (5) Reporting entity shall conduct and update the risk assessment pursuant to subsection (1) periodically or as per necessity.
- (6) Reporting entity shall make available to the Regulator any risk assessment undertaken pursuant to subsection (4), and also make it available to other concerned agency upon demand.
- (7) Reporting entity shall undertake customer due diligence measures in accordance with the level of risks as identified pursuant to this section and shall establish appropriate policy, procedural and risk management measures, to manage and mitigate such risks and update such measures.
- (8) Reporting entity shall regularly monitor the execution of policy, procedural and risk management measures pursuant to sub-section (7) to ascertain whether they are in implementation or not.

**7E. Enhanced CDD:** (1) Reporting entity shall follow appropriate measures of enhanced CDD when establishing business relationship or conducting transaction with/of following customer:-

- (a) Customer identified as high risk pursuant to section 35, 7D., 7U.

- (b) Customer who conducts complex, unusual large transactions and unusual patterns of transactions or which have no apparent economic or visible lawful purpose,
  - (c) Transaction with customer of a country, which is internationally, identified as a deficient or non-compliant country of international AML/CFT standards,
  - (d) PEP, his family member and person associated with PEP,
  - (f) Customer pursuant to subsection (1) (7)(N),
  - (g) Customer consuming high risk products and services,
  - (h) Customer suspected of ML, TF or other offence,
  - (i) Other customers as prescribed by the Regulator.
- (2) Reporting entity shall adopt other measures as prescribed by the Regulator in the course of enhanced CDD pursuant to subsection (1).
- (3) Other provisions regarding additional ECDD shall be as prescribed.

**7F. Simplified CDD:** (1) Reporting entity may adopt a simplified CDD for identification and verification of a customer and transaction where the risk of money laundering or terrorist financing is identified to be lower.

- (2) No such simplified measures of identification and verifications pursuant to subsection (1) shall be applied if there is suspicion of ML and TF.
- (3) Other provisions regarding simplified CDD and its verification shall be as prescribed.

**7G. CDD of Existing Customers:** (1) Reporting entity shall conduct the identification and verification of existing customer having business relationship or operating accounts till the day of commencement of this Act as mentioned in this chapter, based on the risks of the type and nature of customer and beneficial owner, business relation, transaction, products and services, delivery channel.

- (2) The time for identification and verification of customer pursuant to subsection (1) shall be as prescribed by the Regulator.

**7H. Timing of Identification:** (1) Reporting entity shall identify and verify its customer and beneficial owner before establishing business relationship or opening an account, during the course of business relationship or when carrying out occasional transaction.

- (2) Notwithstanding whatever written in subsection (1), Reporting entity, subject subsection (3), may make delayed verification of identity of the customer in the following circumstances, after the establishment of business relationship:-

- (a) If verification may occur as soon as reasonably practical,
- (b) If it is impossible to verify the identification of customer due to practical reasons and verification would interrupt the normal conduct of business, and
- (c) If risk of ML/TF is effectively managed.

- (3) No delayed verification of a customer shall be made if following circumstances exist:

- (a) If the customer is PEP, or of high risk or its family members or person associated with such customer,

(b) If the activities of customer is suspicious.

**7I. Ongoing Monitoring:** (1) Reporting Entity shall exercise ongoing due diligence including by carrying out the following activities:

- (a) To closely examine the transactions of customer in order to ensure that such transactions are consistent with the information of customer, the customer's business and risk profile thereon,
- (b) To request for or examine the source of funds if it is necessary,
- (c) To review and update the document, data, details or information of customers including PEP, high risk customer or of beneficial owner, their business relation, transaction in order to ensure that are kept up-to-date,
- (d) To regularly monitor cross border correspondent banking and wire transfer and such customer,
- (e) To perform other functions as prescribed by the Regulator,
- (f) Other functions as reporting entity finds deemed necessary.

**7J. Identification and Verification by Third Party:** (1) Reporting entity may rely on a third party in undertaking some elements of customer identification and verification in the following circumstances:

- (a) If reporting entity is satisfied that all identification and verification of customer is carried out as per this chapter,
  - (b) If information of identification and verification required by this chapter will be made available to reporting entity without delay as per necessity, and
  - (c) If reporting entity is satisfied that all copies of identification and verification data and documents will be made available from the third party upon request, without delay.
- (2) Notwithstanding whatever written in subsection (1), no identification and verification of a customer made by a third party shall be acceptable for reporting entity:
- (a) If such third party or institution belongs to a country identified as a deficient country in compliance of the international AML/CFT standards, or
  - (b) If such third party or institution does not have measures in place consistent with the requirements set out in this chapter,
  - (c) If such institutions are not under regulation, control and supervision to prevent and combat money laundering and terrorism financing.
- (3) Ultimate responsibility for customer identification and verification under this chapter shall remain with the reporting entity relying on the third party.

- 7K. New Technology and non Face to Face Customer or Transactions:** (1) Reporting entity shall identify and assess the money laundering or terrorist financing risks that may arise in relation to the use of new or developing technology or development of new products, business practices, delivery channels, non-face to face customer or transaction.
- (2) Such identification and assessment of risk pursuant to subsection (1) shall be undertaken before the launch of the new product, business practice or the use of new or developing technology.
- (3) Reporting entity shall take adequate measures to manage the risks identified and assessed pursuant to subsection (1).
- (4) Reporting entity shall adopt policies and procedures to address risks of money laundering and terrorist financing in relation to non face to face customer when establishing a business relationship, conducting transaction or conducting customer due diligence with such customer.

**7L. Obligations Regarding Wire Transfers:** (1) Financial institution, mandated to undertake wire transfer services as per prevailing laws, shall accurately identify and verify the customer before dealing with wire transfer in any currency of any amount by obtaining the following information and details including

- (a) Name of the originator,
- (b) Account number of the originator or in the absence of it, a unique reference number,
- (c) Originator's address or, in the absence of the address, the citizenship or national identity number or customer identification number or date and place of birth,
- (d) Name of beneficiary and account number or in the absence of an account number, a unique reference number,
- (e) Other information or details as prescribed by the Regulator.

**Clarification:** For the purpose of this section the term "Originator" also includes the beneficial owner transferring the money.

- (2) Provisions of subsection (1) shall also be the same for wire transfers bundled into a batch file.
- (3) Provisions of subsection (1) shall not be applicable if transfer is executed as a result of credit card, debit card or prepaid card transaction for the purchase of goods or services provided that the credit card, debit card or prepaid card number accompanies the transfer resulting from such transactions, or transfer between the accounts of financial institutions as mandated by prevailing laws pursuant to subsection (1) or (2).
- (4) Reporting entity may not conduct identification and verification if the originator or beneficiary is existing customer and the reporting entity has already obtained and verified the information required by this section and there is no suspicion of ML/TF.
- (5) Reporting entity may not require information pursuant to clause (c) of sub-section (1) if the transfer is below NRs seventy five thousand.

- (6) Ordering financial institution shall include and ensure that information from clause (a) to (e) of subsection (1) are attached with the payment message throughout the payment chain and to the receiving institution.

Provided that it shall not be a hindrance to send other information except the information mentioned in clause (a), (b) and name of the beneficiary due to the technical problem and upon the condition that such information shall be provided within three days of demand by receiving institution.

- (7) Any institution working as an intermediary or receiving instituting in the chain of wire transfer in Nepal shall ensure that all information pursuant to subsection (6) have been received.
- (8) If information is not received pursuant to subsection (7), the RE shall demand such information from the ordering institution or institution in payment chain.
- (9) Any financial institution in Nepal, working as an intermediary or receiving institution, may suspend, deny or make payment of wire transfer in accordance with its policy and procedures of wire transfer subject to subsection (10) if the information demanded pursuant to subsection (8) is not available.
- (10) Any financial institution in Nepal dealing wire transfer shall develop and implement a risk based on risks policy and procedures including for monitoring, inquiry, suspension, denial, identification of beneficial owner or beneficiary, payment of wire transfer.
- (11) Any financial institution dealing with wire transfers in the amount of NRs seventy five thousand or more shall identify and verify the beneficiary.
- (12) Financial institution engaged on wire transfer as ordering, intermediary or receiving institution shall keep all details and records of wire transfer for five years at minimum.
- (13) Financial institution transmitting money or value or making payment through wire transfer or acting as an intermediary while making such payment shall freeze the money immediately restricting access of anybody thereto if finds that such money is going to a person, organization, group or institution mentioned in chapter 6B.
- (14) Financial institution servicing for wire transfer shall manage the followings in regards to its agents:-
- (a) Implementing the program of prevention and combating money laundering and terrorism financing and monitoring whether it is implemented or not
  - (b) Preparation of up-to-date information of agent and publish it in its website publicly.
- (15) Rastra Bank may prescribe other additional measures on wire transfer.

**7M. Provision on Cross-border Correspondent Banking:** (1) Financial institution shall undertake the following measures while entering into cross-border correspondent banking and similar relationships or conducting transaction:-

- (a) to identify and verify the identification of respondent institution,
  - (b) to get adequate information on the nature of the respondent institution's activities,
  - (c) to fully understand the nature of the respondent's business from the information pursuant to clause (b),
  - (d) to evaluate the respondent institution's reputation and the quality of supervision to which it is subject to, including whether it has been subject to a money laundering or terrorism financing investigation or regulatory action based on publicly-available information,
  - (e) to evaluate the controls implemented by the respondent institution with respect to money laundering or terrorist financing and to ascertain their adequacy and effectiveness,
  - (f) to obtain approval from senior management before establishing a correspondent banking relationship,
  - (g) to understand and establish an arrangement on the respective responsibilities of each party under the relationship regarding AML/CFT,
  - (h) to ensure whether the respondent institution has conducted customer due diligence on customers in the case of a payable-through account, and has implemented mechanisms for ongoing monitoring with respect to its customers, and is capable of providing relevant identifying information on request,
  - (i) Not to enter into or continue correspondent banking relations with a shell bank,
  - (j) To satisfy itself that a respondent financial institution does not permit its accounts to be used by a shell bank.
- (2) Financial institution shall apply the provisions pursuant to subsection (1) in the business relation or transaction carried out on behalf of customer or itself.

**7N. Special Monitoring of Certain Transactions:** (1) Reporting entity shall pay special attention to the following:-

- (a) all complex, unusual large transactions and all unusual patterns of transactions or which have no apparent economic or visible lawful purpose,
- (b) business relationships and transactions relating to the customer and financial institution of a country internationally identified as a country that do not or insufficiently comply with AML/CFT international standards,
- (c) such other transactions prescribed by the Regulator.

- (2) Reporting entity shall examine as far as reasonably possible the background and purpose of transactions referred to in subsection (1), and record the conclusion drawn therein.
- (3) Reporting entity shall keep the records of measures taken pursuant to subsection (2) for five years at minimum and shall be made available promptly if requested by the Financial Information Unit or Regulator or a competent authority.

**7O. Not to Carry out Transaction:** (1) Reporting entity shall not establish an account or continue business relationship or conduct transaction with the following customer:-

- (a) Customer who cannot provide documents, information and details required for the customer identification and verification pursuant to this chapter,
  - (b) Documents, information and details provided pursuant to this Chapter seem conflicting to the identity of the customer,
- (2) Reporting entity shall terminate the relationship with the existing customer referred to in subsection (1).

**7P. Responsibilities of Reporting Entity:** (1) Reporting Entity shall develop and implement AML/CFT Policy and Procedures compatible with its scope, geographic coverage, size of business, customer, transaction and risks for the prevention of money laundering and financing of terrorism and implementation of this Act, rules and directives thereunder .

- (2) Such Policy and Procedures pursuant to Subsection (1) shall include the following:
- (a) Internal policies, procedures and controls relating to relating to customer due diligence measures, information on transaction, verification, record keeping, monitoring, reporting,
  - (b) Arrangement to implement obligations as per this Act, rules and directives thereunder,
  - (c) Adequate screening procedures to ensure high standards when hiring employees,
  - (d) Ongoing and refreshment training for officers and employees,
  - (e) Independent and effective measures to review, verify and update compliance with undertaken under this Act, rules and directives,
  - (f) Measures for detection and information of suspicious transaction,
  - (g) Other measures as prescribed by the Regulator,
  - (h) Other measures to fulfill the obligations as per this Act, rules and directives.
- (3) Reporting entities shall have to appoint compliance officer at management level to comply the obligation pursuant to the provision of this Act or others rules and directives issued in accordance with this Act.



- (4) Reporting entity shall ensure the following powers and necessary resources for compliance officer appointed pursuant to subsection (3):-
- (a) Access to any documents, records, registers and accounts necessary for the performance of his tasks,
  - (b) Power to request and obtain any information, notice, details or document from any employee of the reporting entity
  - (c) Other responsibilities as prescribed by the Regulator,
  - (d) Other functions necessary to implement the Act, rules, and directives.

**7Q. Compliance with Obligations by Foreign Subsidiaries and Branches:** (1) Reporting entity shall require that AML/CFT provisions as per this Act or rules and directives thereunder be implemented by its branch or majority owned subsidiary outside Nepal under the same group.

**Clarification:** "Majority owned" means the ownership of fifty percent or more.

- (2) Reporting entity operating under a same group, its branch or majority owned subsidiary outside Nepal operating under the same group, shall develop and implement a group wide policy and procedures for AML/CFT including the following matters:-
- (a) Exchange of customer identification and verification information and ML/TF risk management,
  - (b) Group-wide exchange of information of customer, transaction or account as prescribed by the Regulator,
  - (c) Adequate safeguard measures for the use and confidentiality of information exchanged pursuant to clause (a) and (b).
- (3) If the laws of the host country prevent the reporting entity from complying with the provisions of subsection (1) and (2), the reporting entity shall inform the Regulator. Reporting entity operating under a group or its foreign branch and majority-owned subsidiaries shall adopt additional measures to manage the money laundering and terrorist financing risk.
- (4) The Regulator may take action as per section 7V or require the closing down such foreign branch and majority-owned subsidiaries if the additional measures pursuant to subsection (3) are not sufficient for preventing ML/TF risks.

**7R. Record Keeping:** (1) Reporting entity shall maintain following documents and records accurately and securely for minimum five years after the termination of business relationship or from the date of transaction in case of occasional transaction:-

- (a) All documents and other information related to the identification and verification of customer and beneficial owner,
- (b) All documents, records and conclusion of the analysis of customer or beneficial owner and transaction,
- (c) Documents and details of account and business relation of reporting entity,
- (d) All documents and records relating to domestic and foreign transactions,
- (e) Record and documents on attempted transactions,
- (f) Other documents and records as prescribed by regulators.

- (2) Notwithstanding whatever written in subsection (1), reporting entity shall keep some prescribed documents and records for more than five years securely as prescribed.
- (3) Reporting entity shall keep and maintain documents and records pursuant to subsections (1) and (2) in such a way that it shall be sufficient to reconstruct such information for the use of legal action as evidence.
- (4) Documents and records to be maintained pursuant to this section should be kept in such way that it could be made readily available to competent authorities upon demand.
- (5) Reporting entity shall keep the report of suspicious transaction for five years.
- (6) The other provision on record and report of transaction of reporting entities shall be as prescribed.

**7S. Obligation to Report Suspicious Transactions:** (1) Reporting Entity shall make a suspicious transaction report to the FIU within three days as far as possible if they find following circumstances in relation to any customer, transaction or property.

- (a) If it suspects or has reasonable grounds to suspect that if the property is related to ML/TF or other offence, or
  - (b) If it suspects or has reasonable grounds to suspect that the property is related or linked to, or is to be used for, terrorism, terrorist, terrorist acts or by terrorist organization or those who finance terrorism,
- (2) Notwithstanding whatever written in subsection (1), lawyers, notaries, other independent legal professionals, auditors and accountants who act as a DNFBP shall submit suspicious transaction reports directly to the FIU or may be submitted through the Regulator.
  - (3) Reporting entity shall also submit the report of attempted transactions or activity to FIU as mentioned under sub-section (1) or (2).
  - (4) Other additional grounds or guidance on detecting suspicious activity, format, method and procedure of reporting suspicious transactions and other related additional information shall be as prescribed by the FIU.

## **7. Chapter 3A has been added as follows:**

### **Chapter 3A**

#### **Regulation and Supervision of Reporting Entities**

- 7T. Regulation and Supervision of reporting Entity:** (1) Regulation, supervision and monitoring of reporting entity under this Act shall be conducted by the Regulator mandated for the regulation and supervision of such entity pursuant to prevailing laws.
- (2) The Government of Nepal, in case the event there is no Regulator mandated to regulate and supervise any reporting entity under prevailing laws may designate an agency or Regulator to work as a Regulator of such reporting entity, upon the advice Coordination Committee,.
  - (3) Regulator, in relation to the regulation and supervision of reporting entity, shall undertake the functions, responsibilities and powers set out in this Act, in addition to the functions, responsibilities and authorities prescribed under other prevailing laws.

**7U. Functions, Responsibilities and Powers of the Regulator:** (1) The functions, responsibilities and powers of the Regulator shall be as follows for the purpose of this Act:-

- (a) to undertake risk assessment to identify, evaluate, monitor risk in the reporting entity, its sector, periodically or as per necessity and adopt adequate measures to effectively manage risks,
  - (b) to require reporting entity to undertake risk assessment to identify, evaluate, monitor risk within the entity periodically or as per necessity and adopt adequate measures to effectively manage risks,
  - (c) to implement or cause to implement this Act and the Rules and directives issued thereunder,
  - (d) to impose mandatory conditions to comply the provisions of this Act for a person or institution while registering, licensing or issuing permissions or license for reporting entity or in the course of business,
  - (e) to develop and implement appropriate financial and other fit and proper test requirements while registering, licensing or issuing permissions to reporting entity and while approving those owning, controlling, or participating, directly or indirectly, in the establishment, management or operation or business of such entity, including the beneficial owner or beneficiary of such shares of the reporting entity or cause to do so,
  - (f) to require RE to apply the AML/CFT measures under Core Principles for prudential supervision,
  - (g) to conduct on-site inspection, off-site supervision and monitoring of reporting entity in order to ascertain the compliance of the provisions of this Act and rules, directives or order issued thereunder,
  - (h) to determine measures for enhanced customer due diligence pursuant to section 7E to be applied by reporting entity or cause to do so,
  - (i) to conduct comprehensive monitoring of the risk assessment and ECDD carried out by the RE in relation to the customer or transactions belonging to a country internationally identified as a non or partially compliant of AML/CFT standards,
  - (j) to order reporting entity to make any type of documents, books, records or details and any other information available for the compliance of this Act, and rules and directives or order issued thereunder,
  - (k) to provide necessary assistance in investigation,
  - (l) to make special assessment of the reporting entity about its mechanisms developed for the detection of suspicious transaction, its evaluation, reporting management on ML, TF pursuant to section 7S. or in other activities suspected or having reasonable grounds to suspect and their effective implementation,
  - (m) to inform FIU if any entity is found to have not submitted suspicious transaction report,
  - (n) to train or cause to conduct training programs to the RE on AML/CFT,
  - (o) to carry out other functions as prescribed.
- (2) Regulator may issue necessary order or directives or guidelines to reporting entity to implement or cause to implement the tasks under this Act and the provisions of international standards on AML/CFT.
- (3) Regulators may enter into cooperation and sharing arrangements with domestic or Foreign Regulators regarding the regulation and supervision of reporting entities

operating under the same group and for the exchange of relevant supervisory information.

- (4) Financial Regulator may make necessary arrangements with domestic or similar Foreign Regulators regarding the system of regulation and supervision, and exchange of regulatory and supervisory information including other cooperation for AML/CFT system.
- (5) Other matters of cooperation between regulators shall be as prescribed.

**7V. Regulatory Actions and Sanctions:** (1) Regulator may take any or all of the following actions or sanctions against a reporting entity failing to comply with any provisions of this Act, Rules, or Directive issued thereunder or order, direction or standards issued pursuant to section 7U:-

- (a) to issue written reprimand warnings,
  - (b) to impose fines from one million to NRs fifty million to the financial institution and from one hundred thousand to ten million to other reporting entity on the basis of gravity of violation of this Act, rules or order or directives issued thereunder,
  - (c) to impose full or partial restriction on the business, profession or transaction,
  - (d) to suspend the registration or permission or license,
  - (e) to revoke the permission or license or cancel the registration,
  - (f) such other sanctions as may be prescribed..
- (2) The sanctions imposed as per sub-section (1) shall be effective, proportionate and dissuasive.
  - (3) Regulator may impose other appropriate sanctions under prevailing laws if the sanctions provided in sub-section (1) are not sufficient for the violation of the provisions of this Act or rules or directives or order thereunder.
  - (4) Reporting entity shall take appropriate action against a staff or an official if it faces regulatory actions or sanctions under this Act due to the activities of such staff or official as per its law or prevailing laws.
  - (5) Regulator shall provide reasonable opportunity of clarification to reporting entity before taking regulatory action or sanction pursuant to this section.
  - (6) A reporting entity, which is not satisfied with the action or sanction of the Regulator, may appeal to the related Appellate Court within thirty-five days.

**8. Amendment in section 8:** (1) The term "offence prevention" in section 8.1 has been replaced by the terms " money laundering and terrorist financing and predicate offences", and, following officials have been added as members to the coordination committee:-

- Secretary – Commission for the Investigation of Abuse of Authority
- Chief – Department of Money laundering Investigation

**9. Amendment in section 8A:**

- Following clause (a1) has been added after clause (a)
  - (a1) to coordinate in AML/CFT risk assessment and instruct the related agency for the management and mitigation of such risks,
- Clause (e) has been replaced by "to discuss the annual reports submitted by the concerned agency, Regulator and FIU and make due coordination",
- (3) The term "offence" in various places has been replaced by the terms " offences of ML/TF"

**10. Amendment in section 9:** (1) Subsection (1) has been replaced as follow:

- (1) The FIU shall be established as a department in Rastra Bank with functional independence and autonomy to receive suspicious transaction reports and other information related to money laundering, terrorist financing and predicate offences and analyze suspicious transactions and other information and to disseminate the results of such analysis to the Department.
- (2) Following subsections (4), (5) and (6) have been added after subsection (3):-**
- (4) Upon request, the Government of Nepal and other public bodies may make staff available to the Financial Information Unit.
- (5) Nepal Rastra Bank shall provide separate budget to the FIU.
- (6) The organization, staffing of FIU and minimum eligibility criteria, transfer, or termination of office of the chief and other staffs of FIU and other resources for FIU shall be as prescribed in the NRB By-laws.

**11. Section 10 has been replaced with “10. Function, Responsibilities and Powers of FIU:** (1) FIU, in addition to other functions, responsibilities and powers mentioned anywhere in the Act, shall have following functions, responsibilities and powers:-

- (a) to receive threshold transaction report as per this Act,
- (b) to receive suspicious transaction reports as per this Act,
- (c) to receive the report of currency and BNI as per this Act,
- (d) to receive other relevant information in accordance with the provision of this Act,
- (e) to analyze suspicious transaction report, including others,
- (f) to disseminate, spontaneously and upon request, analysis and related information to the Department or other investigation agency, if it suspects money laundering, terrorist financing, or other offence in its analysis pursuant to clause (e),

- (g) to provide training on ML/TF to its own staffs, regulator, reporting entity and relevant government agencies having liability to perform under this Act,
  - (h) to provide feedback and guidance in relation to, including, the detection of suspicious activity, suspicious transaction report or information to the reporting entity or concerned agency,
  - (i) to prepare and submit an annual report, on its activities including the money laundering and terrorist financing typologies, techniques, methods and trends of offences, to the Government of Nepal through Rastra Bank,
  - (j) to inspect RE in coordination with Regulator as per necessity so as to know whether RE has developed mechanism to identify suspicious activity and reported,
  - (k) to conclude MOU with foreign counterparts in order to exchange information upon reciprocity,
  - (l) to carry out other functions as prescribed.
- (2) Financial Information Unit may request any relevant information or cooperation needed to carry out its duties with a foreign counterpart that performs similar functions, or it may spontaneously or upon request, share its information or otherwise cooperate with such foreign counterpart.
- (3) Financial Information Unit shall abide the terms and conditions mentioned by foreign counterpart in relation to the information or cooperation received pursuant to subsection (2).
- (4) Financial Information Unit shall mention the prescribed terms and condition while providing information or cooperation to foreign counterpart.
- (5) Provisions of confidentiality pursuant to section 10B. shall be applicable for the information received by FIU from foreign counterpart pursuant to subsection (2).
- (6) Financial Information Unit, in fulfilling its functions, responsibilities and powers pursuant to this section, may conduct the followings:-
- (a) Request and obtain necessary additional documents, records, details or information from reporting entity,
  - (b) Request and obtain administrative, financial or law enforcement documents, records, details or information or commercial database remained in or with concerned agency, regulator or public institution.
- (7) Financial Information Unit, on the basis of gravity, may fine up to one million NRs to a reporting entity which does not submit STR or does not comply or violate prescribed conditions or does not submit the ordered documents or information.

- (8) Financial Information Unit shall provide a reasonable opportunity to the reporting entity for its clarification while fining pursuant to subsection (7).
- (9) A reporting entity unsatisfied with the fine pursuant to subsection (7) may appeal to the Appellate Court within thirty five days of such fine.
- (10) Financial Information Unit shall inform to the regulator if it fines a reporting entity pursuant to subsection (7).

**12. Sections 10A and 10B have been added as follows:**

**10A. Report on Transaction:** Reporting Entity and the Office of the Government shall provide the report of amount for threshold transaction carried out by a person at a time or several transactions within a period of time as prescribed by the Rastra Bank within fifteen days of such transactions.

**Clarification:** For the purpose of this section "Office of the Government" means the Office of Land Revenue, Office of the Company Registrar and other offices as prescribed by the Government of Nepal.

**10B. Confidentiality:** (1) Information, documents, details on STR, TTR and other transactions received by Financial Information Unit shall remain confidential and the analysis of such reporting shall be used only as intelligence for the investigation of an offence or as within the limit prescribed in such dissemination.

- (2) Every person who has duties for or within the Financial Information Unit is required to keep any information obtained within the scope of his or her duties confidential even after the termination of his duties, except as otherwise provided in this Act or as ordered by a court.
- (3) Financial Information Unit shall develop and implement mechanisms and procedures for management and confidentiality, secure use of information received pursuant to this Act, its use, analysis, dissemination, and exchange with foreign counterpart, and access to such information.
- (4) Financial Information Unit may issue directives to any reporting entity or concerned agency in relation to the method, form, time and other procedures regarding reporting, notice and information requirements pursuant to this Act.
- (5) Financial Information Unit shall publish the directives issued under subsection (4) including the website.

**13. Amendment in Section 11. Subsection (4) has been added as follow:**

- (4) The Government of Nepal may make the required specialists available to the Department from the concerned entities or public institution.

**14. Amendment of Section 12 of the Act :** Section 12 has been replaced by the following:-

**"12. Cooperation with foreign counterparts and exchange of information:** (1) Department, may request or provide for the exchange of the information of investigation with its foreign counterpart carrying out the functions of similar nature, on the basis of reciprocity, upon demand or upon its own request.

(2) Department may, if it considers necessary, conduct investigation of money laundering and terrorist financing together with foreign counterpart carrying out the functions of similar nature.

(3) Department may develop make mutual arrangement with foreign counterpart carrying out the functions of similar nature to determine the method, terms and conditions and procedures for the exchange of cooperation pursuant to subsection (1) and (2).

(4) Secrecy provisions, pursuant to section 26, shall be equally applicable to the information received from the foreign counterpart carrying out the functions of similar nature pursuant to subsection (2).

(5) Other provisions regarding the exchange of cooperation shall be as prescribed.

**15. Amendment of Section 13 of the Act:-** Following proviso has been added after the subsection (2):

Provided that if anyone complains with an intention to keep his name confidential, a code as designated by the Chief of the Department should be used in place of the name of the complainant while registering such complaint.

**(2). Following subsection (3) has been added after the subsection (2):**

(3) Notwithstanding whatever written in Sub-sections (1) or (2), information should be officially registered as complaint if any staff of the Department knows by any means that certain person(s) has committed or is committing or is going to commit money laundering or terrorist financing.

**16. Amendment of Section 14 of the Act:** Section 14 is replaced as follows:-

**14. Preliminary Inquiry or Investigation:** (1) The chief shall make preliminary inquiry if he receives complaint pursuant to section 13 or information pursuant to section 10.

(2) The chief, while conducting preliminary inquiry on the complaint or information pursuant to subsection (1) may require any of his staffs conduct preliminary investigation by allowing adequate time, if he considers so due to the nature of complaint or information.

**17. Amendment in section 15: section 15 has been replaced as follow:-**

**15. Appointment or Designation of Investigation Officer:** (1) The chief, if he finds it reasonable to make an investigation of a case from the preliminary inquiry or investigation pursuant to section 14, may conduct investigation himself or appoint or designate an officer of the Department or of other Government agency or of public institution for the investigation of the case.

(2) The chief shall make prior consultation with the head of other Government agency or of public body before appointing an officer of such agency as an investigation officer pursuant to subsection (1).



- (3) Notwithstanding anything written in subsection (1), the Chief may handover a case to an investigation authority for investigation if he finds that such authority is more appropriate to investigate such offence.
- (4) Investigating authority entrusted in accordance with subsection (3) may also use all the powers of investigation officer available under this Act.
- (5) Notwithstanding whatever written this section, the chief may, if he finds that the nature of offence demands two or more than two agencies or public body, may form a joint investigation team, with consultation with such agency or body.
- (6) Investigation officer shall take oath of office before commencing the investigation in a prescribed form.
- (7) Other provisions regarding the joint investigation shall be as prescribed.

**18. Amendment of Section 16 of the Act:** Section 16 is replaced as follows:-

**16. Functions, Duties and Powers of the Investigation Officer:** The functions, powers and duties of the investigation officer, subject to general direction and control of the Chief, shall be as follows:-

- (a) to order any government agency, regulator, reporting entity and related person to provide documents, records, statements, notices and/or information related to the offence of money laundering and terrorist financing,
- (b) to conduct a search of any government entity, regulator, reporting entity, a person and any other place at which any document, write-up, material, facts, information, or instruments that may constitute evidence of an offence of money laundering and terrorist financing is reasonably believed to be located, and to seize such document, write-up, material, facts, information, or instruments or property or instrumentality related with the offence, provided that a written receipt in a prescribed form is given to the concerned person or official for all items seized in the course of the search,
- (c) to arrest a person and detain a person, as per prevailing laws, if the investigation officer has reasonable grounds to believe that such person accused of or suspected of involving in money laundering or terrorist financing may abscond or destroy or hide evidences or likely to obstruct or create adverse influence in the investigation process,
- (d) to require any person with information or reasonably believed to have information related to the offence of money laundering or terrorist financing to provide information, statement or supplementary statement,
- (e) to arrest a person then and there and detain the person under clause (d) above, if he is found related to offence of money laundering and terrorist financing while giving statement or supplementary statement,
- (f) if the person while giving statement or supplementary statement under Sub-section (d) is found it necessary to provide additional information, he can be released on investigation officer's own undertaking by taking a written commitment or ask for bail and in case of inability to provide bail, detain with the consent of the court,
- (g) to trace, identify and evaluate the properties and instrumentality fully and effectively in order to freeze or seize such property or instrumentality pursuant to section 18,
- (h) to write to Financial Information Unit if there is reasonable ground to believe that foreign Financial Intelligence Unit may have any information,

(i) to carry out the other functions as prescribed.

(2) The chief may fine up to NRS fifty thousand against a person disobeying the order given in the course of investigation, upon the report of the investigation officer.

**19. Amendment of Section 17 of the Act:** (1) The following Sub-sections (1) and (2) will replace the existing Sub-section (1) of Section 17 of the Act:—

(1) A detention warrant shall be provided to a person accused of or having reasonable grounds to suspect that he is involved in the offence of money laundering and terrorist-financing before detaining him.

(2) The investigation officer shall present a person detained in money laundering and terrorist financing offence within 24 hour of arrest, except the time for arrival, and may be detained further upon the order of the adjudicating authority.

(2) in Sub-section (3) the word “by the Department” is replaced by “by the investigation officer”.

• Following Sub-section (6) is added after subsection (5):—

6) The investigation officer shall give prior information to the Chief before arresting, detaining or requesting the adjudicating authority to extend the detention time of a person pursuant to this Section.

Provided that if a person is required to be arrested right away, the investigation officer should inform the Chief as soon as possible after arresting such person.”

**20. Amendment of Section 18 of the Act:** The following Section 18 will replace Section 18 of the Act:—

**18. Freezing and Seizing:** (1) The investigation officer shall do the followings in relation to the property or instrumentality of any one having reasonable ground to believe that such property or instrumentality is or related with the proceeds of crimes or with the offence of money laundering or terrorist financing or finds them to be subject to confiscation pursuant to section 34 in the course of investigation, regardless of persons whoever owns, possesses, entitles, or has any kind of interest in:-

(a) Seize such property or instrumentality itself or order a concerned governmental entity to seize it,

(b) Order concerned entity to freeze such property or instrumentality,

(c) Seize or order to freeze property of equivalent value if such property or instrumentality is not found,

(d) Seize or order to or freeze such property or instrumentality ex-parte, without prior notice to such person, irrespective of whoever has it.

(2) Notwithstanding whatever written in subsection (1), the investigation officer may order to freeze the property of a person informed to be present in person in relation to the offence of money laundering and terrorist financing or corresponded pursuant to Section 40, until such person presents own-self before the investigation officer.

(3) The investigation officer, if it is required, may order a concerned agency or institution to immediately freeze or seize the property or instrumentality pursuant to subsection (1) or to freeze the property pursuant to subsection (2), with conditions that such property or instrumentality could not be transferred, mortgaged or sold or distributed or transacted by anyone.

(4) The concerned agency or institution shall immediately freeze if it is asked in writing to do so pursuant to freeze pursuant to subsection (3), in such a way that such property

or instrumentality could not be transferred, mortgaged or sold or distributed or transacted by anyone.

- (5) The investigation officer shall give prior information to the Chief before giving order to freeze or seizing the property or instrumentality pursuant to subsection (1) or (2).  
Provided that if such property or instrumentality is required to be frozen or seized right away, the investigation officer should inform the Chief as soon as possible after such freezing or seizing.
- (6) A person whose property or instrumentality is frozen pursuant to this section may submit a complaint to the prescribed court for the release of such frozen property or instrumentality pursuant to subsection (2) of section 22.
- (7) The court may, upon the receipt of complaint pursuant to subsection (6) and if the property or instrumentality frozen or seized pursuant to subsection (1) is found to be belonging to the complainant, release such property or instrumentality if it finds the following circumstances:-
  - (a) If the complainant is not found to be involved in any offence of money laundering or terrorist financing,
  - (b) If it is found that such property or instrumentality is not related with the offence of money laundering or terrorist financing or there is no ground to believe so, and
  - (c) if the property or instrumentality is not found to be related with other offence committed by the complainant.
- (8) The information of freezing or seizing shall be provided to concerned person after seizing or freezing is completed.
- (9) Notwithstanding whatever written in the prevailing law, investigation officer can prevent or void any contractual or other liabilities going to be created or created by any person that prejudices in the capacity of freezing, seize or confiscating the property and instrument that is subject to confiscation pursuant to section 34.
- (10) The other provision and procedure on freezing or seizing of property in accordance with this Section shall be as prescribed.

**21. Amendment of Section 19 of the Act:** The following Section 19 will replace Section 19 of the Act:-

- 19. Request to the concern Country:** (1) The Department, if it finds in the course of investigation that any property or instrumentality of any person related with money laundering or terrorist financing is in a foreign country, shall immediately request through the Ministry of Foreign Affairs to freeze such property or instrumentality.
- (2) The Department, while making request pursuant to subsection (1) shall include the more possible information about the place of the property or name of banks or financial institutions of such person.

**22. Following sections 19A, 19B and 19 C have been added after section 19 of the Act:-**

- 19A. Monitoring Order:** (1) The investigation officer may issue a monitoring order to a reporting institution directing it to provide information to the Department in respect of transactions of a person under the investigation of money laundering or terrorist financing offence with a form to report.
- (2) While issuing monitoring order the deadline shall be given no more than three months, in general.

- (3) A reporting institution served with a monitoring order shall regularly monitor the transaction of the person and report it to the department regularly in accordance with the terms of the order.

**19B. Seizing Passport or Travel Document:** (1) Notwithstanding whatever written in prevailing laws, the investigation officer may order the concerned entity to hold the passport or travel document of the person accused of in the offence of money laundering or terrorist financing.

- (2) The concerned entity, if it is ordered in accordance with subsection (1), shall not issue a passport or travel document to such person or it shall take control of such document if it is ordered to take control.

**19C. Special Investigative Techniques May Be Used:** (1) The investigation officer may use the controlled delivery and undercover operation in course of investigation of money laundering or terrorist financing under the direct monitoring of the Chief.

- (2) The Chief may, upon being satisfied on the report from the investigation officer that additional evidence and information relating to offence of a suspect of money laundering or terrorist financing may be collected more if such person is not arrested immediately and possibility of such person absconding is minimal, order not to arrest a person suspected on and keep him under a covert observation.
- (3) Other provisions for the application of special techniques pursuant to subsection (1) and (2) shall be as prescribed.

**23. Amendment of Section 20 of the Act:** The following Section 20 replaces the existing section 20: —

**20. Protection of Seized Items:-** The Property, instrument and other items seized in relation to the investigation of the offence of money laundering or terrorist financing by an investigation officer pursuant to this chapter shall be well protected in the Department.”

**24. Amendment of Section 22 of the Act:** The following Sub-section (1) of section 22 is replaced by following subsection (1): —

- (1) The Chief shall, after the completion of the investigation on the offence of money laundering or terrorist financing, submit a dossier of evidence including his advice to the government attorney for the latter to decide whether to file the case or not.

**25. Amendment of Section 25 of the Act:** The following Sub-section (3) is placed after Sub-section (2) of Section 25 of the Act:—

- (3) The Department shall inform other related investigation agency if it finds in course of its investigation that there is a link or possibility of filing another case or punishment under other prevailing laws.

**26. Addition of Section of 25A in the Act:** The following Section 25A is added after Section 25 of the Act:—

**25A. To be informed:** The Department shall send all available information and complaint or file comprising the collected evidences, documents and conclusion in the course of investigation of money laundering or terrorist financing but not related with the offence of money laundering or terrorist financing to other related investigation agency under prevailing laws.

**27. Amendment in Section of 27 in the Act:** The terms "any bank, financial institution or non-financial institution" has been replaced by the terms "any organized institution established under the prevailing laws":—

**28. Amendment in Section of 28 in the Act:-** The following Section 28 replaces the existing section 28:—

**28. Source of the Property:** (1) Any person prosecuted under this Act for the offence of money laundering and terrorist financing after investigation shall require to provide the source of his property, if it is found that his property is unbelievable or he is living an unbelievable life style or he has unbelievably donated, gifted, granted or contributed or loaned to other more than his capacity in comparison to his income.

**(2) Property failed to provide source pursuant to subsection (1) shall be confiscated.**

**29. Amendment in Section of 29 in the Act:-** The following Section 29 replaces the existing section 29:—

**29. No obstacle to Prosecute:** It shall not be an obstacle to investigate, prosecute or punish a person on an offence of money laundering only due to the reason that no investigation has been conducted on predicate offence or not prosecuted even after the investigation or nor convicted on predicate offence or the charge of predicate offence has been dismissed.

**30. Addition of chapter 6A and 6B in the Act as follows:-**

**Chapter 6A**

**Declaration of Currency and Bearer Negotiable Instruments**

- 29A. Declaration of Currency and BNI:** (1) Any person entering into or leaving Nepal, who is in possession of currency or bearer negotiable instruments or who arranges for the transportation of such items of NRs or its equivalent in foreign currency by cargo, courier, postal service or any other means of the amount or more as prescribed by the Rastra Bank shall make an accurate written declaration as prescribed.
- (2) While making declaration pursuant to subsection (1), a person who is in possession of such currency or BNI shall declare it before the customs and a person who is sending or receiving such items by cargo, courier, postal service or any other means, it shall be declared before such agency.
- (3) A cargo, courier, postal service or any other means providing such service shall submit the declaration of currency or BNI pursuant to subsection (2) to the nearest custom officer in a prescribed format.
- (4) Custom officer may require disclosure of items declared pursuant to subsection (1) or (2) or open the cargo, parcel or envelop submitted pursuant to subsection (3), if he suspects on the declaration or information submitted.
- (5) Other provisions on the declaration of currency or BNI shall be as prescribed.
- 29B. Inquiry, Confiscation and Punishment:** (1) Custom officer may inquire about the origin and intended purpose of currency or BNI being carried into or out of Nepal in the following circumstances:-
- (a) If he suspects the declaration is not made or such declaration is false, or
- (b) If there are adequate reasonable grounds to suspect that it is related with an offence.
- (2) Custom officer shall confiscate the currency or BNI if he finds such currency or BNI undeclared or falsely declared or related with an offence and also fine equal to such amount.
- (3) Custom officer shall have to notify the reasons of confiscation to the concerned person while confiscating pursuant to subsection (2).
- 29C. Information to be provided:** (1) Custom officer shall send a suspicious transaction report to FIU and inform the concerned investigation agency immediately, of the currency or BNI suspected pursuant to section 29B.
- (2) The Department of Customs shall send the details of declaration made pursuant to section 29A to FIU every month.
- 29D. To be Commodity Under the Customs Act:** (1) For the purpose of this Act, currency or BNI shall be deemed to an item under the definition of commodity (Malbastu) under the prevailing customs laws.
- (2) Other provisions regarding declaration of currency or BNI, inquiry, search, seizure, confiscation, action or appeal pursuant to this chapter shall be as the provisions of the prevailing Customs laws.

**Chapter 6B**  
**Special Provisions on Freezing of Property and Funds**

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- 29E. Information of Terrorist, Terrorist Group or Terrorist Organization:** (1) The Ministry of Foreign Affairs shall without delay publish the list of terrorist, terrorist group or organization and of those engaged in proliferation of weapons of mass destruction designated under the provisions of the resolutions of United Nations Security Council in its website and submit the same to the Ministry of Home Affairs by electronic means .
- (2) The Ministry of Home Affairs shall, without delay, issue a freezing order against the properties or funds of terrorist, terrorist group or organization designated in the list pursuant to subsection (1) in order to freeze such properties or funds immediately in accordance with this chapter.
- (3) The Ministry of Home Affairs shall immediately publish its order issued pursuant to subsection (2) and section 29 F. in its website.
- (4) The Ministry of Finance, Regulator, concerned agency, FIU, reporting entity or legal person or natural person shall ensure that they are aware of the updated lists of person, group or organization referred to in subsection (1) and (3) by regularly consulting the lists .
- 29F. Enlisting as a Terrorist, Terrorist Group or Terrorist Organization:** (1) The Ministry of Foreign Affairs, if it receives a request from a foreign country in order to freeze the properties or funds of a person, group or organization related/involved with or suspected of being a terrorist or terrorist group or organization, shall send such request to the Ministry of Home Affairs without delay.
- (2) The Ministry of Home Affairs shall make necessary inquiry against a person, group or organization involved or suspected of involving in terrorist act either upon the receipt of request pursuant to subsection (1); or of Nepali or foreign citizen, group or organization involved in or having reasonable grounds of suspicion of being involved in terrorist act inside or outside of Nepal, in its own initiative.
- (3) The Government of Nepal may designate a person, group or organization as a terrorist, terrorist group or organization, if it finds or has reasonable grounds to believe that such person, group or organization is involved or going to be involved in the activities stipulated in subsection (2) or of section 4 or in any terrorist act pursuant to prevailing laws in Nepal or any other country under prevailing laws and issue freezing order against the properties or funds of such person, group or organization. .
- (4) The Government of Nepal may delist a person, group or organization listed pursuant to subsection (3) if it does not find grounds for keeping such person, group or organization into such list.

(5) The Ministry of Home Affairs shall, if any person, group or entity is delisted by the Government of Nepal pursuant to subsection (4), immediately publish its notice in its website.

**29G. Freezing of Properties or Funds:** (1) Natural Person, legal person, concerned agency or reporting entity shall immediately and without delay, freeze the properties or funds of a person, group or organization listed pursuant to section 29E., 29F. and of person, group or organization engaged or financing in the proliferation of weapons of mass destruction.

(2) While freezing the properties or funds in accordance with subsection (1), all the following properties or funds shall be frozen without delay:-

- (a) All properties or funds belonging to or wholly or jointly, directly or indirectly, owned or possessed or held or controlled by such person, group or organization,
- (b) All properties or funds derived or generated from the property or funds pursuant clause (a),
- (c) All properties or funds of a person, group and organization acting on behalf of, or at the direction of such person, group or organization.

(3) Properties or funds frozen pursuant to this section shall be frozen in such a way that such properties or funds shall not be, could not be transferred, mortgaged or sold or distributed or transacted by anyone, except in the execution of the provision of this Act and rules thereunder.

(3) Natural or legal person, concerned agency and reporting entity shall make necessary management that the such properties or funds or other economic resources or financial or other benefits frozen pursuant to subsection (1) and (2) shall not be, directly or indirectly, available or in use of or be beneficial to the individual, group or organization designated under sections 29E and 29F.

(5) Natural or legal person, concerned agency shall submit the the report of such freezing pursuant to subsection (1) and (2) to the Ministry of Finance and reporting entity to the Regulator, within three days of freezing.

(6) Regulator shall submit the detail of the freezing of the property or funds received pursuant to subsection (3) to Ministry of Finance within three days of receipt.

(6) Other additional provisions regarding freezing of property or funds shall be as prescribed.

**29H. Delisting or Defreezing the Properties and Funds:** (1) Any person, group or organization designated in the list of section 29E. and 29F. may submit an application to the Ministry of Foreign Affairs and Ministry of Home Affairs respectively.

(2) Any person, group or organization affected by the freeing of properties or funds or on other matters due to the order under section 29G. may submit an application to the Ministry of Foreign Affairs if the designation has been made pursuant to section 29E and to Ministry of Home Affairs if the designation has been made pursuant to section 29F.

(3) The concerned Ministry shall make an inquiry if it receives an application pursuant to subsections (1) or (2) and the Ministry of Foreign Affairs shall submit it to the UNO if



the applicant is under the list of section 29E. the Ministry of Home Affairs shall submit it to the concerned foreign country through the Ministry of Foreign Affairs if the applicant is under the list of section 29F.

- (4) The Ministry of Home Affairs shall make an inquiry if it receives an application pursuant to subsections (1) or (2) from the person, group or organization designated upon its own initiative under the list of 29F. It may delist such person, group or organization if it does not find any ground to keep applicant under the list of section 29F and shall make defreezing order for his frozen properties or funds.
- (5) Other provisions including the effective implementation of United Nations Security Council Resolutions including listing or delisting of terrorist, terrorist group, terrorist organization, listing or delisting of terrorist, terrorist group, terrorist organization pursuant to section 29F, defreezing properties or funds frozen pursuant to section 29G, appealing against the listing or freezing order, proper protection of bona-fide third party, providing minimum properties or funds for the subsistence of person whose property or funds is frozen shall be as prescribed.

**29I. Request to Another Country:** (1) The Ministry of Home Affairs shall immediately send the list of person, group or organization listed pursuant to section 29F. through the Ministry of Foreign Affairs with a request to freeze properties or funds of such person, group or organization if it finds that their properties or funds may be located in another country.

- (2) The Ministry of Home Affairs shall send the name of person, group or organization if it is delisted through the Ministry of Foreign Affairs in order to defreeze property or funds frozen pursuant to subsection (1).

**29J. Monitoring:** (1) The National Coordination Committee shall make overall monitoring and evaluation about the effective compliance of this chapter.

- (2) Concerned Ministry shall regularly monitor whether the concerned agencies have effectively implemented the provisions of this chapter.
- (3) Regulator shall regularly monitor whether the reporting entities have effectively implemented the provisions of this chapter.
- (4) Other provisions for the monitoring under this section shall be as prescribed.

**29K. Sanctions:** (1) Regulator may impose sanction pursuant to section 7V if it finds any reporting entity is not freezing the properties or funds pursuant to section 29G.

- (2) Departmental action shall be taken against responsible officials of the concerned agency not freezing the property or funds pursuant to section 29G.
- (3) The Ministry of Home Affairs may fine up to one million rupees to a natural or legal person violating the section 29G.
- (4) Notwithstanding whatever written in the subsections (1), (2) or (3), case of TF may be initiated or filed against a natural person, legal person or responsible official of concerned agency or reporting entity who does not freeze the properties or funds with an intention to support the commission of offence of ML or TF, or to terrorist, terrorist group or organization or terrorist acts.
- (5) The provisions under this Act, for tracing properties and instrumentality, freezing, seizing, investigation and confiscation of the properties or funds of terrorist, terrorist

group or organization and other related matters, shall be applicable to offences under this chapter if so required.

**31. Amendment in Section 30 in the Act:-** The following section 30 replaces the existing section 30:—

30. **Punishment in the offence of Money laundering or Terrorist Financing:** (1) Any person who has committed the offence of money laundering pursuant to subsection (1) of section 3 shall be fined two times of the proceeds and imprisoned from two years to ten years.
- (2) Any person who has committed any offence of conspiracy to commit the money laundering pursuant to subsection (2) of section 3 shall be punished pursuant to subsection (1) and person committing other offences under the subsection (2) of section 3 shall be punished half of the subsection (1).
- (3) Any person who has committed any offence of terrorist financing pursuant to subsection (1) of section 4 shall be imprisoned from three years to twenty years and fined five times of the proceeds if it is apparent or fined up to ten million NRs if such proceeds is not apparent.
- (4) Any person who has committed the offence pursuant to subsection (2), (3) or (4) of section 4 shall be half of the subsection (3).
- (5) If a person commits the offence of ML/TF through or by the use of a legal person, such person, official or staff shall be punished pursuant to subsection (1), (2), (3) or (4).
- (6) The chief of legal person working during the period of commission of the offence shall be punished pursuant to prevailing laws if the particular person committing such offence is not traced out.
- (7) Punishment to a public servant or chief or staff of a reporting entity shall be punished ten percent more of the punishment stipulated in subsections (1), (2), (3) or (4) if he is found to have committed the offence of ML/TF.
- (8) If any legal person or arrangement commits any offence of money laundering or terrorist financing, one or all following punishment shall be awarded on the basis of the gravity of offence:-
- (a) Fine up to five times of the fine stipulated in subsection (1), (2), (3) or (4), and/or
  - (b) Prohibiting in public procurement by prescribing time limit
  - (c) Prohibiting in subscribing goods and services by prescribing time limit
  - (d) Recovering losses and damages
  - (e) cancel or revoke license or permission,
  - (f) Liquidating legal person.

(9) If any anyone, who violates any provision of this Act and rules issued thereunder beyond subsection (1) to (7), shall be punished with the confiscation of property and fine equal to that, and if the property is not apparent or fine up to one million NRs.

**32. Amendment in Section of 31 in the Act:-** The following Section 31 replaces the existing section 31:-

**31. Punishment to the Discloser of confidentiality:** Anyone who violates the confidentiality pursuant to subsection (2) of section 10B. or section 26 shall be punished with imprisonment from one month to three months or fine up to one hundred thousand or both.

**33. Amendment in Section 33 in the Act:-** The terms "investigation and inquiry under this Act" has been replaced by the terms "proceedings of investigation" in section 33.

**34. Amendment in Section of 34 in the Act:-** The following Section 34 replaces the existing section 34:—

**34. Property Related with the Offence of ML/TF to be Confiscated:**(1) Any following property or instrumentality related with offence shall be confiscated upon conviction on the offence of money laundering or terrorist financing, regardless of whoever entitles, owns, posses or has any kind of interest in:-

- (a) Property related with the offence of money laundering,
- (b) Instrumentality used or intended to be used in the commission of the offence of money laundering,
- (c) Property related with the offence of terrorist financing,
- (d) Property used or intended to be used in the offence of terrorist financing, or property used or intended to be used or allocated for the use in terrorist act or by (for the use of) individual terrorist, terrorist group or terrorist organization,
- (e) Instrumentality used or intended to be used in the offence of terrorist financing,
- (f) Corresponding value if it is not possible to confiscate the property or instrumentality pursuant to clause (a), (b), (c), (d) or (e).

(2) There should be proper protection of bona-fide third party while confiscating the property or instrumentality pursuant to sub-section (1).

(3) No property or instrumentality and other property or value generated there from of the bona-fide third party not involved in the offence shall be confiscated if the following circumstances exist, for the purpose of subsection (2):-

- (a) If such property or instrumentality is not found to be related with the offence of money laundering or terrorist financing,
- (b) If such property is not the proceeds of crimes or instrumentality related with offence, or
- (c) If such property or instrumentality is found to have acquired before the commission of the offence of money laundering or terrorist financing and without knowledge that such property may be used in offence.

**36. Amendment in Section of 35 in the Act:-** The following Section 35 replaces the existing section 35:—

**35. National Risk Assessment:** (1) National risk assessment of money laundering or terrorist financing or predicate offence shall be conducted periodically or as per necessity.

(2) The Implementation Committee shall be responsible to conduct such national risk assessment pursuant to subsection (1).

(3) The composition, functions, responsibilities, powers of the Implementation Committee and other provisions regarding the national risk assessment shall be as prescribed.

**37. Amendment in Section of 36 in the Act:-** The terms "property" in various places has been replaced by the terms "property and instrumentality" and the term "by department" has been replaced by "by chief on the report of the investigation officer" in section 36.

**38. Amendment in Section of 37 in the Act:-** The following Section 37 replaces the existing section 37:—

**37. Not to be Liable for Providing Information:** No criminal, civil, disciplinary or administrative action or sanction shall be taken against a government agency, reporting entity or any of their official or staff who in good faith submit reports or provide report, document, information, notice or records in accordance with the provisions of this Act, rules and directives issued thereunder as a breach of secrecy provision under prevailing laws or contractual, administrative or regulatory liability.

**39. Amendment in Section of 38 in the Act:-** The terms "property/malbastu" in various places has been replaced by the terms "property and instrumentality" and the term "in section 38.

**40. Amendment in Section of 42 in the Act:-** The following Section 42 replaces the existing section 42:-

**42. Interpretation of Intention:** Interpretation of knowledge, intent or purpose of the person accused of money laundering or terrorist financing shall be inferred from objective factual circumstances.

**41. Amendment in Section of 44A in the Act: -** The following Section 44A replaces the existing section 44A: —

**44A. Tipping Off and related provisions\_**(1) No reporting entity, nor its official or staff shall disclose to its customer or to any other person that a following report, document, record, notice or information concerning suspected money laundering or terrorist financing or predicate offence has been or is being submitted:-

(a) Report of suspicious or threshold transaction,

(b) Report of ongoing monitoring order pursuant to section 19A.,

(c) Any document, record or information provided to the Financial Information Unit, investigation officer or investigation authority pursuant to prevailing laws or regulator,

- (d) Other details or information to be provided by reporting entity under this Act, rules and directives thereunder,
  - (e) Individual introductory detail of an official or staff providing report, document, document, notice or information from clause (a) to (d).
- (2) The Department, investigation officer or staff of the Department, investigation authority pursuant to prevailing laws shall not disclose any information about the personal or institutional detail of the reporting institution, Financial Information Unit or their official or staff submitting a notice or report or document, record or information that will identify or is likely to identify the RE or FIU and a person or official reporting or disseminating in relation to the offence of money laundering, terrorist financing or predicate offence to anyone.
- (3) No information shall be disclosed even in judicial proceedings that discloses or may disclose the introduction of official or staff or agency or institution stipulated in subsection (1) and (2).
- (4) Following authority may impose following sanction at each event of violation of the provision of this section as follows:-
- (a) Regulator to fine up to one million rupees to the bank and financial institution or to casino,
  - (b) Regulator to fine up to two hundred thousand rupees to other designated non-financial business and profession,
  - (c) Reporting entity to take departmental action to its official or staff under their own laws,
  - (d) Notwithstanding whatever written in the prevailing laws of service, concerned authority to take departmental action against the Chief, investigation officer or staff of the Department or investigation officer pursuant to prevailing laws,
  - (e) Notwithstanding whatever written in the prevailing laws of service, departmental action to the head and staff of Financial Information Unit.

**42. Amendment in Section of 44B in the Act:-** The following Section 44B replaces the existing section 44B:—

- 44B. Confidentiality Provision:** (1) Notwithstanding whatever written in prevailing laws, no document, record, detail, notice or information stated to be remained confidential under the prevailing laws shall be confidential to the Department or Financial Information Unit for the performance of the duty under this Act.
- (2) The concerned agency, official or person shall make available the document, record, detail, notice or information if they were asked by the Department or Financial Information Unit specifying the objective pursuant to subsection (1).
  - (3) Other provisions regarding the demand and supply of document, record, detail, notice or information to be maintained as confidential according to prevailing laws shall be as prescribed.

**43. Amendment in Section of 44C in the Act:-** The following Section 44C replaces the existing section 44C:—

- 44C. Transaction in/with Financial Institution and Banking Instrument:** (1) The Government of Nepal, upon the advice of Rastra Bank, may publish a gazette notice requiring any sale or perchance of goods or services or other transactions mentioned in

that notice to be transacted only through the financial institution or banking instruments.

- (2) It shall be the duty of all concerned to use financial institution or banking instrument by not using the cash while selling or purchasing goods, services or conducting other transaction mentioned in the notice under subsection (1).

**44. Section 44F has been added after section 44E:**

**44F Information to be Provided to the Ministry of Foreign Affairs:** The Department, Regulator or FIU shall immediately inform the Ministry of Foreign Affairs if an MOU was concluded with foreign counterpart pursuant to this Act.

**45. Section 47 has been added after section 46:**

**47. Directives may be Issued:** The Government of Nepal may issue Directives necessary for the effective implementation of this Act and Rules thereunder including international standards of money laundering and terrorism financing

**46. Conversion:** Following terms in the various parts of the Act has been replaced as follows:

- (a) The terms “inquiry and investigation” has been replaced by the term "investigation."
- (b) The terms "bank and financial institution" or "bank, financial institution or non financial institution" has been replaced by the terms "reporting entity".
- (c) The terms "offence under this Act" and offence punishable under this Act" have been replaced by the terms " offence of money laundering and terrorist financing."
- (d) Coordination Committee shall refer to National Coordination Committee.

**47. Repeal: Section 9 and clause (g) of section 10 and section 55 of the Organized crime Control Act, 2013 have been repealed.**

## **Annex 1**

### **(Related to Clause (dd) of Section 2)**

#### **1. Any offence under the prevailing laws**

- a. Participation in an organized criminal group and racketeering,
- b. Disruptive (terrorist) act and terrorism,
- c. Trafficking in human being and migrant smuggling in any form,
- d. Any kinds of sexual exploitation including the children,
- e. Illicit trafficking in narcotic drugs and psychotropic substances,
- f. Illicit trafficking in arms and ammunition,
- g. Illicit trafficking in stolen and other goods,
- h. Corruption and bribery,
- i. Fraud,
- j. Forgery
- k. Counterfeiting of coin and currency,
- l. Counterfeiting and piracy of products, or imitation, illegal copy or theft of products,
- m. Environmental crime,
- n. Murder, grievous bodily injury,
- o. Kidnapping, illegal restraint or hostage-taking,
- p. Theft or robbery,
- q. Smuggling (including custom, excise and revenue),
- r. Tax (including direct and indirect),
- s. Extortion,
- t. Piracy,
- u. Insider Dealing and Market Manipulation in securities and commodities ,
- v. Ancient monument conservation,
- w. Forest, National park and wild animals,

- x. Money, banking, finance, foreign exchange, negotiable instruments, insurance, cooperatives,
- y. Black marketing, consumer protection, competition, supply,
- z. Election,
- aa. Communication, broadcasting, advertising,
- bb. Transportation, education, health, medicine, foreign employment,
- cc. Firm, partnership, company, association,
- dd. Real estate and property,
- ee. Lottery, gambling, donation,
- ff. Citizenship, immigration and passport..

(2) Offence of terrorist financing pursuant to section 4,

(3) Any other offence as designated by the Government of Nepal by publishing a notice in the Nepal Gazette, or

(4) An offence under a law of a foreign State, in relation to act or omission under paragraph (1), (2) or (3), which had they occurred in Nepal, would have constituted an offence.